Electronically FILED by Superior Court of California, County of Los Angeles on 12/07/2022 10:52 AM Sherri R. Carter, Executive Officer/Clerk of Court, by R. Perez,Deputy Clerk
22STCP04289

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES - UNLIMITED JURISDICTION

COMMUNITY POWER COLLECTIVE, EAST LOS ANGELES COMMUNITY CORPORATION, INCLUSIVE ACTION FOR THE CITY, MERLIN ALVARADO, and RUTH MONROY,

Petitioners and Plaintiffs,

v.

CITY OF LOS ANGELES, LOS ANGELES CITY COUNCIL, BUREAU OF STREET SERVICES, and DOES 1-25,

Respondents and Defendants.

Case No. 22STCP04289

PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF: (1) WRIT OF MANDATE — CODE OF CIVIL PROCEDURE § 1085, (2) INJUNCTIVE RELIEF AS AUTHORIZED BY LAW, (3) DECLARATORY RELIEF AS AUTHORIZED BY LAW

PRELIMINARY STATEMENT

1. When the Los Angeles City Council unanimously approved Ordinance No. 185900 (the "Ordinance") on November 28, 2018, thereby legalizing, and regulating, sidewalk vending throughout the City, the mood among City Council members, representatives of the local vending community and individual vendors was upbeat and optimistic. Councilman Gil Cedillo commented:

> Our street vendors, our immigrants from throughout the world, come here and want to share their culture, their cuisines . . . this ordinance is our first great leap to embody that.

Councilman Mitch O'Farrell agreed, describing the City Council's vote as having "lift[ed] this shroud of fear in our street vending communities surrounding enforcement," while a sidewalk vendor selling hot dogs in MacArthur Park predicted: "This means freedom . . . The police won't pester us anymore." Today, while the City's Ordinance has accomplished much that is good, it is clear that portions of the Ordinance must be revisited, not only to achieve the results promised upon its approval, but also to bring the Ordinance into compliance with the mandatory directives of California law.

2. The City did not adopt the Ordinance in a vacuum. Two months earlier, California Governor Jerry Brown had signed state-wide legislation regarding sidewalk vending, known as Senate Bill No. 946 ("SB-946"). In addition to decriminalizing sidewalk vending across the State, the Legislature adopted compulsory state-wide standards governing how local governments may regulate sidewalk vending within their boundaries, including a requirement that certain local restrictions limiting where and how sidewalk vendors conduct their businesses must be justified based upon directly related "objective health, safety, and welfare concerns" impacting the public. Further, recognizing the powerful force that local businesses or neighborhood associations often exert upon municipal leaders and legislators, SB-946 mandates that neither "perceived community animus" against sidewalk vendors nor an effort to shield local merchants from "economic competition" from vendors can "constitute an objective health, safety, or welfare concern" justifying such restrictions. The Ordinance's provisions subject to this mandatory State-wide standard are those that (1) "restrict[] sidewalk vendors to operate only in a designated neighborhood or area," (2)

require these vendors to operate only "within specific parts of the public right-of-way," and (3) otherwise "regulat[e] the time, place and manner" by which vending is carried out.

3. Even before SB-946 was enacted, City Council had largely completed its work in designing the Ordinance, which it began as early as 2013. When SB-946 was enacted, while the City Council dropped certain elements of its draft Ordinance that were unlikely to survive scrutiny under SB-946's requirements, it retained others of great consequence to sidewalk vendors. Most significant was the City Council's retention, and indeed expansion, of prescribed "no vending" zones where all sidewalk vending is prohibited within a 500 foot buffer area around many of the City's most vibrant and iconic retail venues, including the Hollywood Walk of Fame, Dodger Stadium (later expanded to include all of Elysian Park), the Hollywood Bowl, Staples Center/LA Live and the LA Coliseum. Other such provisions of the final Ordinance and supporting regulations impose a similar 500 foot "no-vending" zone around all farmers' markets, swap meets, filming operations, outdoor concerts, and parades anywhere in the City, as well as schools (including certain postsecondary educational facilities),and limit sidewalk vendors to occupying only a narrow five foot wide (or less) "vending area" adjacent to the street and not "in front of any building." Needless to say, the foregoing restrictions block sidewalk vendors from conducting their businesses within the City to a far greater extent than can be justified under SB-946.

4. Following SB-946's enactment, the City Council was well aware of its requirements. Upon receiving the City Staff's analysis of SB-946 in October 2018, which offered amendments to various portions of the draft Ordinance intended to satisfy the State's new requirements but nowhere addressed its "no vending" zones, the City Council quickly informed City staff that the final Ordinance must retain all such exclusions, and directed the City's Chief Legislative Analyst and City Attorney to "prepare and present findings" to the City Council justifying these restrictions under SB-946's compulsory standard.

5. City Staff never prepared and presented the City Council with findings or analysis justifying the "no vending" restrictions included in the Ordinance. Nonetheless, even when no such findings or analysis were forthcoming, the City Council proceeded to adopt the foregoing restrictions by including in the final Ordinance an additional "Whereas" clause asserting in

conclusory terms that sidewalk vending "within 500 feet of popular tourist attractions and concert and sports venues . . . impacts pedestrian, tourist and vendor safety due to overcrowding on sidewalks, which results in pedestrians walking in the streets." This conclusory assertion is wholly unsupported by any data, documentation or analysis. Nor does the City Council record identify where, when or to what extent "pedestrians walking in the streets" had in fact been observed in the areas from which vendors are now excluded, and the record is devoid of any evidence that any pedestrian traffic onto the streets that did occur was attributable to sidewalk vendors as opposed to other conditions or causes. This glaring lack of justification falls far short of satisfying SB-946's statutory standard. Beyond the addition of this "Whereas" clause, the City Council record reveals no other steps taken to comply with SB-946's requirements as applied to the Ordinance provisions challenged here.

6. In May 2020, the absence of any justified basis for the City's "no vending" exclusion zones — that sidewalk vending allegedly causes dangerous pedestrian encroachment onto the street in these areas — became even more apparent once the City implemented its Al Fresco sidewalk dining program for restaurants and bars. Under this program, restaurants and bars across the City — including those within the 500 foot "no vending" zones in which sidewalk vending is excluded — may receive approval to set up tables, chairs, heaters, and other fixtures throughout the sidewalk area adjoining their business provided only that a five to six foot wide walkway through the sidewalk area is left open. But under the Ordinance, sidewalk vendors are permitted only to place their carts and vend within a narrow five foot wide "Vending Area" adjoining the street when they are allowed to vend at all. In the "no vending" zones purportedly justified by fears of pedestrian encroachment, restaurants and bars enjoy undiminished access to build outdoor dining areas occupying the sidewalks notwithstanding that vendors are excluded from conducting business throughout a space of 500 feet in all directions. The Al Fresco program, which was approved by the City Council as a permanent program in May 2022, presents a far greater likelihood of pedestrian encroachment onto the street than any sidewalk vendors' carts, and could hardly have been implemented if the City took seriously its assertion that allowing sidewalk vendors into the "no vending" zones would create meaningful pedestrian dangers.

7. Following the Ordinance's approval, the City's implementation and enforcement of its "no-vending" zones and related vending restrictions rapidly increased, and continues in full force today. This enforcement includes widespread issuing of citations to vendors, warnings against vending in the excluded areas in the City's brochures and online publications describing its sidewalk vending rules and, at times, other conduct penalizing vendors believed to be operating in the excluded areas. These enforcement steps, coupled with lost revenues from sidewalk vendors' exclusion from these lucrative retail venues, have had devastating consequences on both individual vendors and the sidewalk vending community at large. Continued enforcement will continue to exclude the City's sidewalk vendors from the opportunity to "share their culture, their cuisines" where and when they are entitled to do so under California law.

8. Petitioners and Plaintiffs respectfully request issuance of a writ of mandate barring the City from continued implementation or enforcement of the Ordinance's "no vending" zones and other restrictions challenged herein and declaring them to be unlawful, void and unenforceable, together with injunctive and declaratory relief and other appropriate relief addressing these unlawful enactments.

JURISDICTION AND VENUE

9. Jurisdiction over this action is proper in the Superior Court of the State of California because the Court has general subject matter jurisdiction and no statutory exceptions to jurisdiction exist.

10. Venue is proper in this Court pursuant to California Code of Civil Procedure section 394, because each Respondent and Defendant is a city or local agency and is situated in Los Angeles County. Cal. Civ. Proc. Code § 394 ("An action or proceeding against a . . . city, or local agency, may be tried in the county . . . in which the city or local agency is situated.").

PARTIES

11. Petitioner and Plaintiff Community Power Collective (herein, "CPC") is a community organization sponsored by a nonprofit 501(c)(3) corporation, Right to the City Alliance, Inc. Its mission is to build power with low-income tenants and workers through transformative organizing to achieve economic justice, community control of land and housing,

and to encourage systems of cooperation in the greater Los Angeles region. CPC was founded in 2020 in the midst of the global pandemic, but its work did not begin in 2020. Most of its staff have deep roots in organizing community, union, tenants, land rights and students from diverse programs and campaigns for many years. Sidewalk vendors and the issues they face are a principal focus of CPC, and its work encompasses both legislative advocacy on behalf of, and direct services rendered to, these vendors and their community. CPC's advocacy activities include organizing sidewalk vendors in support of their issues and concerns. The direct services that it provides include, among others, representing vendors before City offices and officials, informing vendors of their rights, educating them on the process for obtaining licenses and permits, and assisting them in finding jobs. Its headquarters are located at 3124 Pueblo Avenue, Los Angeles, California 90032.

12. CPC, together with the hundreds of sidewalk vendors that participate in its activities, have been adversely impacted by the Ordinance's "no vending" zones and related restrictions challenged here, and has been required to dedicate substantial time, effort and expenses in assisting vendors impacted by the Ordinance's provisions. For example, CPC's staff routinely aids vendors faced with City citations, including those involving the Ordinance's "no vending" zones, by supporting a legal clinic assisting vendors receiving citations, explaining to vendors the alleged conduct giving rise to the citations, and working with them to apply for reduction in the fines accompanying those citations. In addition, CPC has frequently met with City representatives to address and mediate on key issues faced by the vending community including, for example, numerous vendors in the Hollywood area who have experienced repeated harassment, displacement, and loss of income on account of the Ordinance.

13. CPC is entitled to the relief requested below because (a) it and its members are beneficially interested in, and/or adversely affected by, the City's adoption, implementation and enforcement of the Ordinance's provisions challenged herein, (b) it and its members are entitled to bring this action to enforce against the City the public duties and requirements imposed by SB-946 as a matter of the public interest, and (c) pursuant to Cal. Civ. Proc. Code section 526a and the common law of California, it and its members have paid and/or were assessed for and are liable to

pay taxes imposed by the City within one year of the commencement of this action and therefore are entitled as taxpayers to enforce the terms of SB-946 against the City.

14. Petitioner and Plaintiff East Los Angeles Community Corporation (herein, "East LA Community Corp." or "ELACC") is a nonprofit 501(c)(3) corporation which has diligently assisted and advocated for sidewalk vendors over the past fourteen years as part of its mission to support and advocate for economic and social justice on behalf of economically vulnerable communities on Los Angeles' east side and elsewhere in the City. East LA Community Corp.'s interest and dedication to sidewalk vendors initially grew out of its mission addressing affordable housing and other land use issues, leading it to understand sidewalk vendors' goals and struggles for recognition and legalization in areas in which they were commonly targeted for misdemeanors and fines merely for operating their vending businesses. Today, East LA Community Corp. performs both policy advocacy and direct services on behalf of the sidewalk vendor community. As a founding member of the Los Angeles Street Vending Campaign Coalition, East LA Community Corp. worked extensively to bring together what eventually grew into some 65 organizations supporting sidewalk vendors in Los Angeles, including extensive efforts in support of passage of SB-946. Its headquarters are located at 2917 East 1st Street, Los Angeles, California 90033.

15. Following the City's adoption of the Ordinance, East LA Community Corp. promptly took steps to assist vendors to understand and comply with its requirements, adding these efforts to its already existing direct services that include workshops on business licenses and permits, financial coaching, assisting vendors with taxes and related requirements, and conducting a "know your rights" program. These additional activities include hosting a legal clinic for vendors impacted by the Ordinance, providing physical space and staff assistance for meetings of vendors to share their concerns and discuss their rights, and assisting sidewalk vendors in filing applications for fine reductions when they received City citations for vending in "no vending" zones. Through this involvement, East LA Community Corp. has witnessed the adverse impacts of the Ordinance's "no vending" zones and related restrictions challenged here, and has been

required to dedicate substantial additional time, effort and expenses to assist vendors to navigate these challenges.

16. East LA Community Corp. is entitled to the relief requested below because (a) it and its members are beneficially interested in, and/or adversely affected by, the City's adoption, implementation and enforcement of the Ordinance's provisions challenged herein, (b) it and its members are entitled to bring this action to enforce against the City the public duties and requirements imposed by SB-946 as a matter of the public interest, and (c) pursuant to Cal. Civ. Proc. Code section 526a and the common law of California, it and its members have paid and/or were assessed for and are liable to pay taxes imposed by the City within one year of the commencement of this action and therefore are entitled as taxpayers to enforce the terms of SB-946 against the City.

17. Petitioner and Plaintiff Inclusive Action for the City (herein, "Inclusive Action") is a nonprofit 501(c)(3) corporation whose mission is to bring people together to build strong, local economies that uplift low-income urban communities through advocacy and transformative economic development initiatives. It views sidewalk vendors and their communities as a key backbone of the Los Angeles economy, which is demonstrated through its work on behalf of sidewalk vendors. This work is twofold — both as an advocate for policy change and in providing direct services to members of this important community, including (among others) financial loans and assistance and technical support in navigating applicable legal requirements. Inclusive Action is a founding member of the Los Angeles Street Vending Campaign Coalition, working to decriminalize sidewalk vending, organize special vending areas which take account of vendor needs, and otherwise advocate in support of the sidewalk vendor community, including strong efforts in support of the passage of SB-946. Its headquarters are located at 2900 East Cesar E. Chavez Avenue, Los Angeles, California 90033.

18. Inclusive Action, together with the sidewalk vendors that it assists, have been adversely impacted by the Ordinance's "no vending" zones and related restrictions challenged here, including the fragmenting and undercutting of long-standing vendor communities operating in high-value retail areas now singled out as "no vending" zones, disrupting vendors' mutual

support activities, severing their consumer relationships, and causing vendors to lose hard earned income from their vending. As a result of the Ordinance, Inclusive Action has been required to dedicate considerable additional time, effort and expenses in assisting vendors to navigate these challenges.

19. Inclusive Action is entitled to the relief requested below because (a) it and its members are beneficially interested in, and/or adversely affected by, the City's adoption, implementation and enforcement of the Ordinance's provisions challenged herein, (b) it and its members are entitled to bring this action to enforce against the City the public duties and requirements imposed by SB-946 as a matter of the public interest, and (c) pursuant to Cal. Civ. Proc. Code section 526a and the common law of California, it and its members have paid and/or were assessed for and are liable to pay taxes imposed by the City within one year of the commencement of this action and therefore are entitled as taxpayers to enforce the terms of SB-946 against the City.

20. Additional Petitioners and Plaintiffs are individual sidewalk vendors who have been injured by the City's implementation and enforcement of the Ordinance's "no vending" zones and other restrictions challenged herein and, absent the relief sought in this lawsuit, will continue to suffer harm in the future, as follows:

(a) Petitioner and Plaintiff Merlin Alvarado has worked along Hollywood Boulevard as a fruit and hot dog vendor for approximately seven years. She operates a permitted fruit cart, which requires annual permit fees and a commissary lease which currently cost her some $300 per month. Since the Ordinance was passed, Ms. Alvarado has received approximately thirty citations for operating in a "no vending" zone, and does not know how many outstanding citations she currently has, given that she frequently receives citations in the mail that were not handed to her in person while operating her business. On one occasion, Ms. Alvarado received two separate citations in the mail, citing her for operating in a "no vending" zone on the same day, approximately one hour apart. In another instance, she was physically chased by a Bureau of Street Services investigator after working in the Hollywood "no vending" zone, and in yet another, while working north of that zone, she was wrongly told by BSS investigators writing her a citation

that vendors must remain 500 feet beyond the "no vending" zone itself. The citations she has received from the City for operating in a "no vending" zone, together with the harassment and retaliation experienced from City officials, have made it difficult for her to operate her business consistently and to pay her existing business expenses;

(b) Petitioner and Plaintiff Ruth Monroy is a fruit and hot dog vendor who has worked along Hollywood Boulevard for some five years. Since the Ordinance was passed, she has received multiple Notice of Violations ("NOVs"), which have included threats of impoundment of her vending equipment if she continued to operate her business in a "no vending" zone. The NOVs and warnings from City officials regarding impoundment of her vending equipment have made it difficult for Ms. Monroy to operate her business consistently.

21. Petitioners and Plaintiffs identified in Paragraphs 11 through 20, inclusive, are referred to collectively herein as "Petitioners," and, from time to time, those identified in Paragraph 20 may be referred to as "Individual Petitioners."

22. Respondent and Defendant City of Los Angeles (herein, the "City" or "Los Angeles") is a municipal corporation and charter city, whose officers, officials and agents are responsible for enacting, implementing and enforcing the Ordinance, including its "no vending" zones and other restrictions challenged herein.

23. Respondent and Defendant Los Angeles City Council (herein, the "City Council" or "Council") consists of fifteen Council members and, under the City Charter, is the governing legislative body of the City. The City Council is responsible, among other things, for enacting, repealing, modifying and amending City ordinances, including the Ordinance and its "no vending" zones and other restrictions challenged herein, as well as levying taxes, providing funding for the City's departments and confirming or rejecting appointments by the Mayor.

24. Respondent and Defendant Bureau of Street Services (herein, the "BSS") is part of the City's Department of Public Works and is responsible for the planning, construction, maintenance, and enforcement activities needed to maintain the City's streets and sidewalks, and is charged in large part with implementing and enforcing the Ordinance, including its "no vending" zones and other restrictions challenged herein.

25. Respondents and Defendants identified in Paragraphs 22 through 24, inclusive, are referred to collectively herein as "Respondents."

26. Petitioners are presently unaware of the true names and capacities of the Respondents and Defendants sued as DOES 1-25, and therefore sue these parties by such fictitious names. Petitioners will amend this complaint to allege the true names and capacities of these parties when these have been ascertained. Petitioners are informed and believe, and on that basis allege, that each of these Respondents is responsible in some manner for the matters set forth in this Petition and Complaint.

FACTUAL BACKGROUND

A. The Benefits Of Sidewalk Vending To California And Its Economy

27. Sidewalk vendors sell food or merchandise from "a pushcart, stand, display, pedal-driven cart, wagon, showcase, [or] rack . . . or from one's person, upon a public sidewalk." Cal. Gov. Code §§ 51036 *et seq.* ("SB-946"); *see id*. § 51036(a). Sidewalk vendors have been a staple of California's culture since before California entered statehood; but by the early 20th century, the City began enacting strict regulations on the practice, including the enforcement of segregation practices that favored white vendors over non-white vendors in access to public space. More recently, beginning in the 1980s, the City experienced "an increase in street vending as a means of economic survival," particularly among recent immigrants from Mexico and Central America. (N. Heil, "Increasing Equity In Los Angeles' New Street Vending Program," at 5 (UCLA, 2019)). As the numbers of sidewalk vendors grew, so did the local opposition to their presence in the City. By the 1990s, arrests of sidewalk vendors had increased substantially, a fact "attributed to nearby storefronts complaining about [the] vendors." *Id.* at 5-6. Until recently, sidewalk vending has been treated as unlawful by many cities across California, including the City of Los Angeles, exposing vendors to injurious legal penalties.

28. The important benefits that sidewalk vendors have brought to the residents of Los Angeles and to the vendors and their families alike are well established. The Legislature, when enacting SB-946, acknowledged that sidewalk vending "contributes to a safe and dynamic public space" and described the purpose of this legislation as encouraging sidewalk vending in order to

"promote entrepreneurship and support immigrant and low-income communities." SB-946, §1(a)(3) & 1(b). The Los Angeles City Council, in its Ordinance, also cited the following benefits of sidewalk vending:

a. "[A] well-regulated vending program would enliven the City's streetscape by creating a vibrant marketplace;"

b. "[B]ecause vending has a relatively low barrier to entry, vending encourages entrepreneurship;" and

c. "[P]roviding economic opportunity for people to support themselves and their families is one of the most important goals for the City[.]"

Ordinance, p.1.

29. Academic and other studies have confirmed these benefits. As a 2015 report evaluating the "economic and geographic impact of . . . street vendors" in Los Angeles explained:

> Street vending is a $504 million industry in Los Angeles. Every year, 50,000 microbusinesses set up shop on the sidewalks of the city, according to the Bureau of Street Services. Three-quarters sell merchandise, such as clothing and cell phone accessories. The other 10,000 sell bacon-wrapped hot dogs, tamales, and ice cream, street food for which Los Angeles is famous. . . . .
>
> Enterprise by Los Angeles street vendors has rippling effects across the local economy. As Los Angeles street vendors sell food and goods to passersby, the multiplier effects from the supplies they purchase and the income they spend accumulate and reverberate through the local economy, adding to the demand for goods and services from local suppliers. This translates into added sales and jobs for local stores, as well as other suppliers who help street vendors keep their carts in operation. These small purchases create jobs for workers in the upstream supplier chain, supporting still more sales and jobs when households of those workers spend their earnings . . . .

(Y. Yen Liu, P. Burns, D. Flaming, "Sidewalk Stimulus**,** Economic and Geographic Impact Of Los Angeles Street Vendors," at 4 (Economic Roundtable, 2015)). These broader economic benefits are in addition to the vital economic support that sidewalk vending provides to the City's immigrant and economically disadvantaged communities.

B. State Legislation — SB-946 And Its Protections For Sidewalk Vendors

30. In September 2018, the California Legislature enacted SB-946, thereby establishing state-wide standards for sidewalk vending, effective on January 1, 2019. SB-946 bars local governments, including the City of Los Angeles, "from regulating sidewalk vendors, except in

accordance with" its provisions. Cal. Gov't Code § 51037(a) ("A local authority shall not regulate sidewalk vendors except in accordance with Sections 51038 and 51039" of the Government Code); *see also* Legislative Counsel's Digest of Senate Bill No. 946. In addition to decriminalizing sidewalk vending, SB-946 places limits on local governments' ability to regulate such vending within their jurisdictions by means of locally-imposed restrictions upon the geographic areas or portions of the public right-of-way in which vending is allowed.

31. While some of SB-946's provisions are unconditional in nature — for example, vendors may never be required to obtain the consent of any private business or individual before offering their wares (§ 51038(b)(3)) — other provisions bar local governments from restricting various categories of vendor activities unless justified by "objective health, safety, or welfare concerns" that are "directly related" to the vendor conduct and vendor restrictions at issue. As pertinent here, such restrictions include:

a. Requiring vendors to operate "only in a designated neighborhood or area" of the local government's territory (§ 51038(b)(4)(A));

b. Requiring vendors to limit their operations to only a "specific part of the public right-of-way" (§ 51038(b)(1)); and

c. "[A]dditional requirements regulating the time, place, and manner of sidewalk vending" (§ 51038(c)).

32. This "objective health, safety, and welfare" standard lies at the heart of SB-946's limitations upon a local government's ability to exclude sidewalk vendors from particular geographic areas or portions of the public right-of-way. Through this standard, SB-946 requires that any "health, safety, or welfare concern" offered by a local government to justify vendor restrictions must be "objective" in nature — a term denoting known or observable circumstances or events — and must be "directly related" to the vendor conduct and restrictions on that conduct at issue. Further, SB-946 makes clear that neither "perceived community animus" against vendors or their activities nor "economic competition" between vendors and local merchants will "constitute an objective health, safety, or welfare concern" justifying local restrictions. Cal. Gov't Code § 51038(e). Through these provisions, the Legislature plainly sought to bar local

government restrictions on sidewalk vending not shown to be necessary to prevent real and demonstrable injury or harm to the public.

33. When enacting SB-946, the Legislature adopted express legislative findings determining that regulation of sidewalk vending involves "matters of statewide concern." These findings include (1) that "unnecessary barriers" previously erected upon sidewalk vending have blocked aspiring vendors from "accessing the formal economy," thereby "harming California's economy . . . and disrupting the regulation of business," (2) that California's "interest in the regulation of traffic," including "ensuring the appropriate flow of traffic or . . . ensuring the safety of pedestrians on the road or the sidewalk," calls for regulation at the State level, and (3) that the "safety and welfare of the general public is promoted by encouraging local authorities to support and properly regulate sidewalk vending." SB-946, §§ 1(a)(4) & (6).

C. City Council Ordinance 185900 And Its Restrictions On Sidewalk Vending Within The City

34. Some eight weeks after the Governor's approval of SB-946 in September 2018, the City Council adopted Ordinance No. 185900, adopting its own requirements addressing sidewalk vending. This Ordinance contains an "urgency clause," stating that its provisions are "required for the immediate protection of public peace, health and safety," and therefore must "be operational by January 1, 2019," the effective date of SB-946. This clause reflects the City Council's belief that "additional vending regulations" beyond those in SB-946 are needed to "preserve the health, safety and welfare of the public" throughout Los Angeles.

35. Although not finalized until after SB-946, the City largely shaped and developed the Ordinance prior to this State enactment. Following an early, but unsuccessful, effort during the 1990s to regulate sidewalk vending, the City Council next took up the subject of sidewalk vending in late 2013, leading to extended proceedings addressing whether to lift the City's then-existing prohibition on such vending and, if so, how sidewalk vending should be regulated. To obtain public input and recommendations on how best to address sidewalk vending, the City Council conducted substantial community outreach, including a series of citywide meetings during 2015 that resulted in extensive public comments.

36. Much of this public commentary supported replacing the existing ban on sidewalk vending with regulations designed to permit vendors to carry out their businesses while ensuring protection of the public good. For example, the Los Angeles Street Vendor Campaign ("LASVC"), a community coalition of more than 60 organizations that represent sidewalk vendors, strongly advocated for decriminalization of vending and the creation of a citywide vending program designed to foster entrepreneurship, create new jobs, and ensure safety for vendors and the public alike.[1] Other commentators, including certain local businesses and business organizations, neighborhood councils and individual citizens, took an opposite view - opposing the lifting of existing vendor regulations or otherwise calling for stringent limitations on when and where sidewalk vendors may operate. At a December 2014 Council meeting, for example, the Hollywood Property Owners' Alliance, Hollywood Chamber of Commerce and East Hollywood Business Improvement District, submitted letters proposing that local communities be entitled to "opt out of" lawful sidewalk vending, thereby effectively obtaining a veto right over such vending within their boundaries — a proposal thereafter endorsed by numerous other opponents of sidewalk vending.[2] Still other commentators urged that sidewalk vendors be required to obtain consent letters from adjacent business or property owners as a condition to vending in sidewalk areas, again garnering endorsements from many opponents of vending.[3]

37. In November 2016, Council members Joe Buscaino and Curren Price submitted a "sidewalk vending framework" intended to build a consensus for action by the City Council. (Communication from Councilmembers Buscaino and Price, Los Angeles City Council File 13-1493 at 1–2, 5 (Nov. 22, 2016), https://clkrep.lacity.org/onlinedocs/2013/13-1493_misc_v_11-22-16.pdf). This framework incorporated several highly restrictive provisions favored by sidewalk

[1] *E.g.*, Communication from Public, Los Angeles City Council File 13-1493 (May 12, 2014), https://clkrep.lacity.org/onlinedocs/2013/13-1493_pc_5-12-14c.pdf (containing comments from over 300 business owners in support of citywide sidewalk vending program).

[2] Communication from Public - Received in Committee, Los Angeles City Council File 13-1493 (Dec. 2, 2014), https://clkrep.lacity.org/onlinedocs/2013/13-1493_misc_12-02-2014.pdf.

[3] *E.g.*, Letter from Central City Association of Los Angeles to Councilmembers Buscaino and Price, Communication from Public, Los Angeles City Council File 13-1493 (Dec. 1, 2016), https://clkrep.lacity.org/onlinedocs/2013/13-1493_misc_a_12-01-16.pdf ("It is important for brick and mortar business owners and property owners to retain control over what happens on their doorsteps.").

vending opponents, including (1) requiring vendors to obtain letters of consent from adjacent property owners before initiating vending, (2) a process to create "no-vending districts [or] districts with more restrictive rules than the citywide standards" when initiated by the Council itself or by a petition by "20% of property owners or businesses" in the area, and (3) limiting the number of permits issued to "a maximum of two vendors per block face" in commercial or industrial zones and further greatly limiting vending in residential areas. *Id.* Unsurprisingly, these restrictive proposals were thereafter widely praised in comments by brick-and-mortar merchants and other opponents of sidewalk vending.[4]

38. On January 31, 2017, the City Council voted to decriminalize sidewalk vending, a step thereafter implemented by amendments to LAMC section 42.00(b), and approved in concept the adoption of a program to regulate sidewalk vending. (Council Action, Los Angeles City Council File 13-1493 (Feb. 1, 2017), https://clkrep.lacity.org/onlinedocs/2013/13-1493_CA_02-01-2017.pdf (approving Report from Public Works and Gang Reduction Committee, Los Angeles City Council File 13-1493 (Jan. 18, 2017), https://clkrep.lacity.org/onlinedocs/2013/13-1493_rpt_pwgr_01-18-2017.pdf; as amended by Amending Motion 30-A, Los Angeles City Council File 13-1493 (Jan. 31, 2017), https://clkrep.lacity.org/onlinedocs/2013/13-1493_mot_1-31-2017.pdf)). To flesh out such a program, the Council instructed the City's Chief Analyst, together with the City Attorney, to submit draft rules and regulations for such a program that included, among other provisions, "[a] process to create special vending districts to be initiated by Council, the Board of Public Works, or petition (with signatures from 20 percent of property owners or businesses in the proposed district), based on legitimate public health, safety and welfare concerns that are unique to specific neighborhoods" as well as "[p]ermit requirements that will help mitigate risk to the City, adjacent property owners and businesses, including . . . the consent of the adjacent property owner or business at that address." (Report from Public Works and Gang Reduction Committee (Jan. 18, 2017), *supra*). An Amending Motion adopted by the

[4] Letter from Valley Industry & Commerce Association to Councilmembers Joe Buscaino and Curren Price, Communication from Public, Los Angeles City Council File 13-1493 (Dec. 6, 2016) https://clkrep.lacity.org/onlinedocs/2013/13-1493_misc_12-6-2016.pdf ("Requiring the permission of an adjacent property owner or business is a key provision in this proposal that we applaud you for including . . .").

Council at the same time directed that the draft regulations also (1) include "'economic' as one of the concerns allowable to create special vending districts" and (2) "establish criteria that would create and maintain a list of additional no-vending areas." (Amending Motion 30-A, *supra*).

39. On November 3, 2017, the Chief Legislative Analyst submitted a detailed report laying out both a proposed Program Design and Proposed Sidewalk Vending Regulations. (Report of the Chief Legislative Analyst, Los Angeles City Council File 13-1493 (Nov. 3, 2017), https://clkrep.lacity.org/onlinedocs/2013/13-1493_rpt_CLA_11-03-2017.pdf). Although seeking further "Council direction . . . where vending may occur or not occur" (*id*. at 2), this report recommended that (1) "[n]o vending" should be allowed "within 500 feet of venues such as Dodger Stadium, Hollywood Bowl, the Staples Center, the LA Coliseum, Hollywood Boulevard, or any other venue as determined by the Board of Public Works" (*id.* Attachment 3 at 6), (2) City Staff should work with "each Council Office to determine expansion, restriction or prohibition of sidewalk vending" within each Council District (*id.* at 2), and (3) in any event, no more than two vending carts per individual block should be allowed in any commercial area of the City (*id.* at 1, Attachment 3 at 6). The report, however, declined to support the City Council's request for a requirement that sidewalk vendors obtain the consent of adjacent property owners, instead recommending that "the City Attorney be consulted in closed session" if the Council "wishes to proceed with this additional requirement." (*Id.* Attachment 1 at 2). Moreover, with respect to the Council's directive that "economic" considerations be added as "concerns allowable to create special vending districts," the report explained that "the City Attorney has stated that limiting vending by suggesting that one form of economic activity is favored over another would not be advisable." (*Id*. Attachment 1 at 2).

40. In April 2018, the City Council approved the principal portions of the Chief Legislative Analyst report described above, and directed the City Attorney to "prepare and present a[] [draft] Ordinance" implementing them. However, with regard to whether sidewalk vendors should be obligated to obtain the consent of the adjacent property owner, the Council reiterated its January 2017 position, "INSTRUCT[ing] the [Legislative Analyst], with the assistance of City Attorney and Department of Public Works . . . to establish a process by which adjacent property

owners can be notified of a potential vending permit, including an appeals process . . . ." (Council Action, Los Angeles City Council File 13-1493 (Apr. 18, 2018), https://clkrep.lacity.org/onlinedocs/2013/13-1493_CA_04-18-2018.pdf). On July 2, 2018, the City Attorney submitted to the Council the draft Ordinance that it had requested (herein, the "7/2/2018 Draft Ordinance"). (Report from City Attorney, Los Angeles City Council File 13-1493 (Jul. 2, 2018), https://clkrep.lacity.org/onlinedocs/2013/13-1493_rpt_ATTY_07-02-2018.pdf; Attachment to Report dated 07/02/2018 - Draft Ordinance, Los Angeles City Council File 13-1493 (Jul. 2, 2018), https://clkrep.lacity.org/onlinedocs/2013/13-1493_ord_draft_07-02-2018.pdf). Notably, however, this draft Ordinance omitted any provision requiring sidewalk vendors to obtain the consent of adjacent business owners.

41. Before action could be taken on the 7/2/2018 Draft Ordinance, SB-946 was enacted and signed by the Governor. City Council members thereafter called upon the City Attorney, together with the Chief Legislative Analyst, to prepare "a new Sidewalk Vending Ordinance consistent with SB 946." (Motion, Los Angeles City Council File 13-1493-S5 (Sep. 25, 2018), https://clkrep.lacity.org/onlinedocs/2013/13-1493-S5_mot_09-25-2018.pdf). On October 15, 2018, the Chief Legislative Analyst submitted a further report, reviewing SB-946's requirements and offering suggestions as to how certain of the 7/2/2018 Draft Ordinance's provisions, such as the "two carts per City block" limitation, might be justified under the State enactment. (Report from Chief Legislative Analyst, Los Angeles City Council File 13-1493-S5 (Oct. 15, 2018), https://clkrep.lacity.org/onlinedocs/2013/13-1493-S5_rpt_CLA_10-15-2018.pdf). This report, however, did not address the multiple "no vending" zones proposed in the November 2017 Chief Legislative Analyst Report (Report of the Chief Legislative Analyst (Nov. 3, 2017), *supra*) nor did it offer any suggestions regarding how such a provision could be justified under SB-946's "health, safety or welfare" standard. Two weeks later, through a Council motion, a majority of Council members directed that the revised Ordinance it had requested must "[i]nclude [the] No-Vending Zones, as approved by the Council on April 17, 2018," and instructed the Chief Legislative Analyst and City Attorney "to prepare and present findings based on health, safety and welfare for the no-vending zones identified by [the] Council." (Council Action, Los Angeles City Council

File 13-1493-S5 (Nov. 2, 2018), https://clkrep.lacity.org/onlinedocs/2013/13-1493-S5_CAF_11-02-2018.pdf (approving Report from Economic Development, Public Works and Gang Reduction, Arts, Entertainment, Parks and River Committees, Los Angeles City Council File 13-1493-S5 (Oct. 23, 2018), https://clkrep.lacity.org/onlinedocs/2013/13-1493-S5_rpt_pwgr_10-17-18sig.pdf)).

42. On November 15, 2018, the City Attorney transmitted to the Council for consideration a revised draft of the Ordinance (herein, the "11/15/2018 Draft Ordinance"), which was substantially similar to that later enacted. (Report from City Attorney, Los Angeles City Council File 13-1493-S5 (Nov. 15, 2018), https://clkrep.lacity.org/onlinedocs/2013/13-1493-S5_rpt_ATTY_11-15-2018.pdf; Attachment to Report dated 11/15/2018 - Draft Ordinance (Draft Vending Ordinance No. 1), Los Angeles City Council File 13-1493-S5 (Nov. 15, 2018), https://clkrep.lacity.org/onlinedocs/2013/13-1493-S5_ord_draft_11-15-18.pdf). This draft retained each "no-vending" zone included in the 7/2/2018 Draft Ordinance plus two additional zones — the Venice Beach Boardwalk, where vending was to be limited to "First Amendment protected expressive activities," and the El Pueblo de Los Angeles Historical Monument, where no vending was to be allowed. It also authorized the Bureau of Street Services and, within the City's park system, the Department of Recreation and Parks, to establish additional "restrictions or prohibitions" on sidewalk vending based upon "objective health, safety and welfare concerns."

43. Also included in the 11/15/2018 Draft Ordinance was an additional "Whereas" clause that, in an apparent attempt to satisfy SB-946, recited that "vending within 500 feet of popular tourist attractions and concert and sport venues on event days impacts pedestrian, tourist and vendor safety due to overcrowding on sidewalks, which results in pedestrians walking in the street," and that the "high amount of traffic" and "high concentration of visitors" in these areas also "affect[ed] the safety of pedestrians and motorists." (Draft Vending Ordinance No. 1 (Nov. 15, 2018), *supra*). These generalized assertions are conclusory at best, wholly unsupported by any data, documentation, factual observations, or other evidence, and certainly insufficient to enable the City Council (or any other competent observer) to conclude that sidewalk vending within all, or any one of, the "no vending" zones listed in the contemplated Ordinance would in fact present

an "objective health, safety, or welfare concern" under SB-946's statutory standard. Apart from this additional "Whereas" clause, the record of the Council's consideration and eventual approval of the Ordinance on November 28, 2018 is devoid of any other attempted analysis or justification — either by the City staff or otherwise — for including these highly restrictive "no vending" zones in the final Ordinance.

1. The City's Exclusion Of Sidewalk Vendors From Many Of Its Most Lucrative Retail Venues

44. The final Ordinance provides that "[v]ending is prohibited within 500 feet" of (1) "the Hollywood Walk of Fame, Universal Studios, and the El Pueblo de Los Angeles Historical Monument" at all times, (2) "Dodger Stadium, the Hollywood Bowl, the Staples Center and the LA Coliseum" on event days only, (3) "Venice Beach" where vending is "limited to First Amendment protected expressive activities" and (4) "any other venue as determined by the Board of Public Works or Board of Recreation and Parks Commissioners." Subsequently, in the City's Rules and Regulations implementing these provisions, the Staples Center/LA Live area was elevated into a venue at which sidewalk vending is barred at all times, and the exclusion of sidewalk vendors from Dodger Stadium during event days was expanded to encompass all of Elysian Park. From time to time herein, the foregoing "no vending" zones will be referred to as the "Challenged No-Vending Zones." Maps of these zones are published by the City, exemplars of which are Exhibit A.

45. By creating, implementing, maintaining and enforcing the Challenged No-Vending Zones, the Ordinance has effectively banned sidewalk vendors from many of the City's most vibrant and lucrative retail venues, thereby reserving the extensive food and merchandise commerce taking place therein to the local brick and mortar merchants and greatly impacting the livelihood of sidewalk vendors who otherwise would operate there. In doing so, the Ordinance drastically undercut its avowed goals of "providing economic opportunit[ies]" for sidewalk vendors to "support themselves and their families" — described in the Ordinance itself as "one of the most important goals for the City" — and encouraging valuable entrepreneurship.

46. As explained above, SB-946 bars local governments from excluding sidewalk vendors from particular neighborhoods, geographic areas, or portions of the public right-of-way unless justified by "objective health, safety, or welfare concerns" "directly related" to the vendor conduct and vendor restrictions at issue, coupled with the proviso that neither "perceived community animus [n]or economic competition" will constitute such a concern. Measured by this standard, the Ordinance's Challenged No-Vending Zones fail in all respects.

47. The City's purported justification for these restrictions — its conclusory assertion that sidewalk vending in tourist areas and sports venues causes overcrowding that leads to "pedestrians walking in the street" — is nowhere supported by data, documentation or other evidence of any kind addressing (1) when, where and to what extent pedestrians or tourists have in fact been observed to encroach onto the street within any or all of the "no-vending" zones, (2) whether, and to what extent (if any), such pedestrian encroachment can be attributable to sidewalk vending as opposed to other conditions or causes — such as moviegoers in line at theatres, tourists waiting to enter tour buses, street performers or the like, or (3) the availability of different or additional steps that police or other local authorities might take (or already have taken) to manage sidewalk crowding in these areas — such as street or lane closures, designated pedestrian lanes, additional traffic personnel in crowded areas, among others — thereby avoiding pedestrians stepping onto the street. The glaring absence of any such data or analyses is particularly significant given that the City itself — through its Bureau of Street Services and/or Department of Recreation and Parks — already possesses extensive facts and data that might be analyzed to address such matters or else is in the best position to collect and review such facts and data.

48. Moreover, each of the Challenged No-Vending Zones varies in important respects from the others, such that each zone requires individual consideration and analysis of the conditions found there. Each such zone has its own configuration of sidewalks and public areas, its own traffic patterns, and its own populations of tourists, pedestrians and motorists, and presents its own unique issues and challenges in managing sidewalk congestion. Given these differing circumstances, the Ordinance's conclusory uniform explanation for excluding all vendors from

within 500 feet of each of these lucrative vending areas is of little value at most, and certainly falls far short of satisfying SB-946.

49. Further confounding the analysis required to justify the Ordinance's exclusionary zones is their extraordinary scope and geographic extent, resulting from the 500 foot buffer area imposed around the particular tourist, sports or concert venue located at their center. As a reference point, five hundred feet equals nearly the length of one and a half football fields, goal post to goal post.[5] Taking Hollywood Walk of Fame as an example, this expansive buffer area removes aspiring sidewalk vendors so far from the tourists and pedestrians strolling on Hollywood Boulevard or Vine Street as to make the vendors' presence virtually unnoticeable to these potential purchasers of their offerings. Rather than a measure designed to prevent pedestrians walking in the street, the City's 500 foot buffer area around each "no vending" zone appears transparently calculated to eliminate sidewalk vendor competition with local merchants operating from a brick-and-mortar location or else to appease the perceived community animus held by other residents of the Challenged No-Vending Zones. As such, the Ordinance's "no vending" zones appear facially to violate SB-946. Cal. Gov't Code § 51038(e).

50. In addition to violating SB-946, the City's differential treatment of sidewalk vendors infringes upon California's constitutional guarantees of due process and equal protection under the law. Cal. Const. art. I, § 7. Sidewalk vendors are entitled to a fair and equal claim to utilize the City's sidewalks and the public right-of-way in their businesses, a fact emphasized by SB-946's prohibition of local government restrictions on sidewalk vending designed to shield local businesses from competition from vendors. As such, the Ordinance's unequal treatment of sidewalk vendors can only be considered a "wholly arbitrary restriction" inconsistent with such constitutional guarantees. *E.g.*, *People v. Ala Carte Catering Co.*, 98 Cal. App.3d Supp. 1, 4, 8 (1979) (invalidating Los Angeles' ordinance barring sales by food trucks within 100 feet of restaurants as a "naked restraint of trade" that unconstitutionally discriminates in favor of brick and mortar restaurants); *see Cooley v. Superior Ct.*, 29 Cal. 4th 228, 253 (2002), as modified (Jan.

[5] A football field measures 360 feet, goal post to goal post. 500 feet, divided by 360 feet, equals 1.39, or one full field and 4/10 of another.

15, 2003) ("The concept of the equal protection of the laws compels recognition of the proposition that persons similarly situated with respect to the legitimate purpose of the law receive like treatment.").

2. Other Rules and Regulations Unduly Burdening Vendor Activity

51. The City's Rules and Regulations also place additional undue restrictions on where and how sidewalk vendors are permitted to operate that have nowhere been justified under SB-946's statutory standard, which herein shall be referred to as the "Additional Challenged Restrictions."

a. First, while SB-946 permits local governments to adopt regulations temporarily displacing sidewalk vending in "*the immediate vicinity*" of (1) "permitted certified farmers' market[s] or . . . permitted swap meet[s] during the limited operating hours" of these events and (2) "area[s] designated for a temporary special permit issued by the local authority," authorizing such events as "filming, parades, or outdoor concerts," the City's Rules and Regulations instead exclude vendors from operating anywhere within 500 feet of any such events, an unjustified exclusion area that goes far beyond the "immediate vicinity" of the events in question. (*Compare* Cal. Gov't Code §§ 51038(d)(1) & (2) (describing what "a local authority may do") *with* City of Los Angeles and Bureau of Street Services, City of Los Angeles Sidewalk Vending Rules, http://streetsla.lacity.org/sites/default/files/sidewalk_vending_rules_english.pdf (last visited December 5, 2022) (describing 500 foot restriction around temporary events)). In addition, SB-946 limits any exclusion of sidewalk vendors under this authority to only the "limited operating hours" or "limited duration" of the temporary events in question, an important limitation that the City's Ordinance fails to include. (*Id.*)

b. Second, SB-946 prohibits local governments from limiting sidewalk vendors to operate "within specific parts of the public right-of-way" unless this restriction is "directly related to objective health, safety, or welfare concerns." Cal. Gov't

Code, § 51038(b)(1). But the City's Rules and Regulations (1) impose further 500 foot "no vending" zones around schools, including postsecondary educational facilities attended by secondary pupils, (2) explicitly limit sidewalk vendors from occupying any portion of the sidewalk area apart from a narrow "Vending Area" immediately adjacent to the street that is no wider than "[t]he smaller of 5 feet or 1/3 [the] depth of [the] existing sidewalk" and (3) further state that "[n]o stationary vending [is] allowed in front of any building." City of Los Angeles Sidewalk Vending Rules, *supra*, at 1-2. Nowhere has the City provided any "objective health, safety, or welfare concern" justifying these extremely restrictive requirements.

3. The City's Ongoing Enforcement Of The Ordinance's Unlawful Provisions

52. Petitioners are informed and believe that, since the passage of the Ordinance, Respondents have issued to sidewalk vendors operating in the City administrative citations or Notices of Violation ("NOVs") for alleged unlawful vending in "no vending" zones numbering in the thousands, as well as many more citations and/or NOVs for alleged violations of other of the unlawful portions of the Ordinance complained of herein. Indeed, information provided by the City indicates that its citations for alleged vending in "no vending" zones alone have amounted in recent months to 106 in May 2022, 127 in June 2022, and 135 in July 2022, with a particularly large number issued in the Hollywood area. Sidewalk vendors also frequently report other harassing conduct commonly performed by City officers enforcing the Ordinance including, without limitation, (1) targeting vendors believed to be operating in "no vending" zones by issuing citations and leaving them on vendors' cars without observing any actual vending conduct, mailing citations to vendors after seeing cars believed to belong to the vendor in or near such a zone when no vending has been observed, and citing vendors as they move through a "no vending" zone even when not engaged in vending, (2) threatening future actions, such as impoundment of vending equipment, and (3) adding to vending citations late fees or other additional charges not authorized by SB-946. Such harassment is improper, unlawful and in violation of SB-946 provisions such as § 51039(a)(1) (vending conduct "punishable only by"

enumerated administrative fines) and § 51037(a) (prohibiting local authorities from restricting or attempting to sanction vendor conduct that is authorized and/or permitted by SB-946).

D. The City's Al Fresco And Sidewalk Dining Program

53. The City's sole justification for the Challenged No-Vending Zones is the claim that sidewalk vendors may create sidewalk "overcrowding" or congestion, resulting in pedestrians stepping onto the street. This stated rationale loses any shred of credibility when viewed in light of the City's Al Fresco/sidewalk dining program.

54. In May 2020, the City instituted its Al Fresco program authorizing restaurants and bars to serve customers in outdoor dining areas on the sidewalks adjoining their premises. (*E.g.*, Los Angeles Department of Transportation, L.A. Al Fresco — Sidewalk Dining, https://ladot.lacity.org/sites/default/files/documents/alfresco_sidewalk_dining_en.pdf (last visited December 5, 2022)). No fees were required to join this program, and businesses could do so simply by completing a short online application. (*Id.*). Once approved, the owner is allowed to set up tables, chairs, heaters and other fixtures or equipment on the adjoining sidewalk provided only that a pedestrian path some five to six feet in width was left open to pedestrian movement.[6] (*Id.*). As of September 2021, over 1,600 Al Fresco program authorizations had been issued to the City's restaurants and bars. (Joint Report from Bureau of Engineering and Los Angeles Department of Transportation, Los Angeles City Council File 20-1074 (Sep. 29, 2021), https://clkrep.lacity.org/onlinedocs/2020/20-1074_rpt_DOT_09-27-21.pdf). Although the Al

[6] While some City guidelines suggest that "permitted food vendors" might seek to join the Al Fresco program, this program is explicitly limited to business and property owners seeking to create outside seating areas for guests. Los Angeles City Planning, "Expanded Outdoor Dining," https://planning.lacity.org/plans-policies/outdoor-dining (last visited Dec. 5, 2022) ("Los Angeles City Planning has been directed to amend the Zoning Code to allow for expanded outdoor dining and streamline existing outdoor dining provisions in the Zoning Code."); Los Angeles Department of Transportation, *supra*, at 1-2 ("Sidewalk Dining is defined as setting up your own tables and chairs for dining on the sidewalk immediately adjacent to your business"); City of Los Angeles, "00 - LA Al Fresco: Sidewalk Dining Program Rules and Guidelines" ¶ 5, https://engpermitmanual.lacity.org/other-boe-permitsprocesses/technical-procedures/00-la-al-fresco-sidewalk-dining-program-rules-and (last visited Dec. 5, 2022) (allowing placement on sidewalks only of tables, chairs, umbrellas, canopies, heaters or the like). In addition, to participate, business owners must "maintain sufficient liability insurance . . . not less than $300,000" and agree to "indemnify and hold the City of Los Angeles harmless" from any damage or injury resulting from their participation, requirements that sidewalk vendors are unlikely to be able to satisfy. *Id.*, ¶¶ 1-2.

Fresco program was initially meant to be a temporary response to the COVID pandemic, following several extensions of this program through October 2021, the City Council has recently elected to make the program permanent.[7]

55. If the City contends that sidewalk vendors occupying a narrow strip of the sidewalk right-of-way adjacent, and parallel to, the street curb constitute an "objective health, safety or welfare concern" requiring their exclusion from the specified "no vending" zones, how can the City justify allowing brick and mortar restaurants and bars to take over any portion of the sidewalk area adjacent to their businesses apart from a five to six foot wide pedestrian walkway — thereby creating a far larger encroachment on busy sidewalks than any sidewalk vendors' carts? Surely, if the purported risks of "overcrowding" cited to justify the Ordinance's "no vending" zones were genuine and well founded, the City could hardly have instituted, and now chosen to make permanent, the far greater encroachment on the sidewalk produced by its Al Fresco dining program.

FIRST CAUSE OF ACTION
Against All Respondents
(Writ of Mandate — Code of Civil Procedure § 1085)

56. Petitioners reallege and incorporate by reference each and every allegation contained in the above paragraphs.

57. Respondents have a clear and present duty to carry out their regulation of sidewalk vending in full compliance with SB-946's standards and requirements.

58. Respondents' enactment, implementation, and ongoing enforcement of the Challenged No-Vending Zones and Additional Challenged Restrictions violate SB-946 and are unlawful, void and unenforceable. Petitioners are entitled to a writ of mandate under California

[7] Within the Hollywood Walk of Fame — one of the Ordinance's "no vending" zones — the City's Al Fresco dining rules add an additional requirement that participating restaurants and bars must place all "tables, chairs . . . or any other permitted item[s]" at least "18-inches away from the edge of [squares] that hold[] an honorees' star." (City of Los Angeles Bureau of Engineering Permit Manual, "Revocable 'R' Permits - Technical Procedures - 02 - Sidewalk Dining," https://engpermitmanual.lacity.org/revocable-r-permits/technical-procedures/02-sidewalk-dining (last visited Dec. 5, 2022)). The contrast with the City's treatment of sidewalk vendors is particularly stark here — brick and mortar businesses are permitted to place all manner of obstructions within the sidewalk area adjoining their location provided these remain 18 inches from squares containing an honoree's star while sidewalk vendors must remain at least 500 feet away from any part of this iconic retail venue.

Civil Procedure Section 1085, directing Respondents to withdraw, and cease enforcement of, all such provisions and to require City officers to cease engaging in harassing conduct directed at vendors in violation of SB-946.

59. At all relevant times, Respondents have had the ability to fulfill their duties under the law.

60. At all relevant times, Respondents have failed to proceed in the manner required by law.

61. Respondents' actions as alleged herein were arbitrary, capricious, and contrary to law, and not supported by evidence.

62. Both in writing and otherwise, Petitioners have objected to Respondents' establishment, implementation and enforcement of the provisions of the Ordinance and accompanying regulations complained of herein, and continue to do so up to the present.

63. Petitioners have a clear and present beneficial and/or pecuniary interest in the issuance of a writ of mandate because, unless this petition is granted, Petitioners and others similarly situated will be denied the benefits of SB-946 and prevented from conducting their businesses in the manner authorized by the State Legislature.

64. Petitioners have no plain, speedy or adequate remedy in the ordinary course of law. Unless this Court grants the relief requested, Respondents will continue to fail and refuse to perform their legal duties. No money damages or other legal remedy could adequately compensate Petitioners or the public for the injury and hardship attributable to Respondents' unlawful enactment, implementation and ongoing enforcement of the Challenged No-Vending Zones and Additional Challenged Restrictions.

65. Respondents, moreover, owe a legal duty to cancel and expunge all past citations and NOVs that were issued based upon alleged violations of the Challenged No-Vending Zones and Additional Challenged Restrictions.

66. In addition, Individual Petitioners have been subjected to unlawful penalties, fines and other monetary exactions based upon their purported past violations of the Challenged No-Vending Zones and/or Additional Challenged Restrictions, and are therefore entitled to recovery,

reimbursement of or (where such monetary exactions remain unpaid) cancellation of these amounts because they constitute ancillary relief properly imposed due to Respondents' unlawful implementation and enforcement of the Challenged No-Vending Zones and Additional Challenged Restrictions. As a matter of law, Individual Petitioners' claims for these forms of ancillary relief are not subject to the claims presentment provisions otherwise imposed by California law.

67. Section 1021.5 of the Code of Civil Procedure provides that attorneys' fees may be awarded to a successful party against one or more opposing parties in any action which has resulted in the enforcement of an important right affecting the public interest. Petitioners here are entitled to such an award of attorneys' fees for the following reasons.

68. Petitioners are informed and believe, and thereon allege, that the general public or a large class of persons has a significant interest in, and will derive a significant benefit from, the relief prayed for herein. The general public will derive a significant benefit from the proper enforcement and application of the law, in that local agencies, including Respondents, must comply with the provisions of SB-946. The general public will derive further significant benefits from this action and the relief prayed for herein, in that such relief will further the State's goals and policies regarding sidewalk vending, as stated in SB-946, by eliminating unlawful barriers imposed by Respondents that have and continue to block current and aspiring vendors from accessing the formal economy, thereby harming California's economy and disrupting the regulation of business.

69. Respondents' compliance with SB-946 is a matter of great public concern. The necessity and financial burden of private enforcement by Petitioners is such to make an award of attorneys' fees appropriate, and such fees should not, in the interests of justice, be borne by Petitioners.

SECOND CAUSE OF ACTION
Against All Respondents
(Injunctive Relief As Authorized By Law)

70. Petitioners reallege and incorporate by reference each and every allegation contained in the above paragraphs.

71. Petitioners have no plain, speedy, and adequate remedy for Respondents' wrongful conduct in violation of SB-946 in the ordinary course of law. Monetary damages cannot adequately compensate for the irreparable injuries caused thereby.

72. Unless enjoined by this Court, Respondents will continue to violate SB-946 in all of the respects complained of herein.

73. Petitioners are entitled to preliminary and permanent injunctive relief prohibiting the Respondents from enforcing the Challenged No-Vending Restrictions and Additional Challenged Restrictions and barring City officers from engaging in harassing conduct related to these portions of the Ordinance in violation of SB-946. Absent intervention by the Court, Petitioners, and others similarly situated, have and will continue to suffer irreparable injuries through Respondents' wrongful conduct in violation of SB-946. Such injunctive relief properly includes, based on fundamental principles of equity, restitution, and fairness, cancellation and expungement of all past citations and NOVs issued in violation of SB-946 and, in the case of Individual Petitioners, the recovery, reimbursement of or (where such monetary exactions remain unpaid) cancellation of all unlawful penalties, fines and other monetary exactions imposed upon them based on purported past violations of the Challenged No-Vending Zones and/or Additional Challenged Restrictions.

74. For the reasons alleged above, Petitioners are entitled to an award of attorneys' fees under Section 1021.5 of the Code of Civil Procedure.

THIRD CAUSE OF ACTION
Against All Respondents
(Declaratory Relief As Authorized By Law)

75. Petitioners reallege and incorporate by reference each and every allegation contained in the above paragraphs.

76. An actual controversy presently exists between Petitioners and Respondents concerning the Challenged No-Vending Zones and Additional Challenged Restrictions because Petitioners contend that Respondents' complained of course of conduct violates SB-946 and is unlawful, void and unenforceable.

77. Petitioners are informed and believe, and thereon allege, that Respondents deny Petitioner's contentions and further deny that they have acted in contravention of the law in any respect.

78. Petitioners therefore seek a judicial determination of the rights and duties of the parties with regard to: Respondents' failure to comply with SB-946; Petitioners' rights under SB-946; the denial of Petitioners' rights by Respondents in their adoption and enforcement of the Challenged No-Vending Zones and Additional Challenged Restrictions, including, without limitation, harassing conduct by City officers in violation of SB-946. Such a declaration is necessary and appropriate at this time so that Petitioners and Respondents may ascertain their respective rights, duties and responsibilities in connection with the matters alleged in this Petition.

79. The declaratory relief granted to the Individual Petitioners also properly includes, based on fundamental principles of equity, restitution, and fairness, a declaration that Individual Petitioners are entitled to the cancellation and expungement of all past citations and NOVs issued in violation of SB-946 and, in the case of Individual Petitioners, the recovery, reimbursement of or (where such monetary exactions remain unpaid) cancellation of the unlawful penalties, fines and other monetary exactions imposed upon them based upon their purported past violations of the Challenged No-Vending Zones and/or Additional Challenged Restrictions.

80. For the reasons alleged above, Petitioners are entitled to an award of attorneys' fees under Section 1021.5 of the Code of Civil Procedure.

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PRAYER FOR RELIEF

WHEREFORE, Petitioners request that this Court:

1. Issue its alternative writ of mandate and/or order to show cause directing Respondents to withdraw, and cease all enforcement of, the portions of the Ordinance and accompanying regulations complained of herein and determine that these provisions are unenforceable and void or, in the alternative, to show cause why a peremptory writ as requested below should not issue;

2. Upon return of the alternative writ and/or the hearing on the order to show cause or alternatively in the first instance, issue a peremptory writ ordering Respondents to withdraw, and cease all enforcement of, the portions of the Ordinance and accompanying regulations complained of herein and determine that these provisions are unenforceable and void;

3. Enter such temporary restraining orders, preliminary injunctions, and permanent injunctions to prohibit Respondents from engaging in harassing or retaliatory enforcement, or other harassing or retaliatory conduct, against street vendors, including Petitioners, as Petitioners may specify in further application to this Court;

4. Enter injunctive relief against Respondents requiring them to withdraw and cease all enforcement of the portions of the Ordinance and accompanying regulations complained of herein on the grounds that they violate SB-946 and are unlawful, void and unenforceable;

5. Enter a declaratory judgment determining that Respondents' implementation and enforcement of the portions of the Ordinance and accompanying regulations complained of herein violate SB-946 and are unlawful, void and unenforceable;

6. Enter as part of the requested (a) writ of mandate, (b) injunctive relief and (c) declaratory judgment, a determination that Respondents are required (i) to cancel and expunge all past citations and NOVs issued in violation of SB-946 and (ii), in the case of Individual Plaintiffs, to reimburse, repay or cancel the unlawful penalties, fines and other amounts imposed upon them based upon their purported past violations of the Challenged No-Vending Zones and/or Additional Challenged Restrictions.

7. Grant Petitioners recovery of their costs and reasonable attorneys' fees under Civil Procedure Code §1021.5; and

8. Grant Petitioners such other and different relief as the Court deems proper.

Dated: December 6, 2022

Respectfully,

ARNOLD & PORTER KAYE SCHOLER LLP

By: Matthew T. Heartney
Matthew T. Heartney (Dec 6, 2022 10:18 PST)

Matthew T. Heartney
Attorneys for Petitioners and Plaintiffs

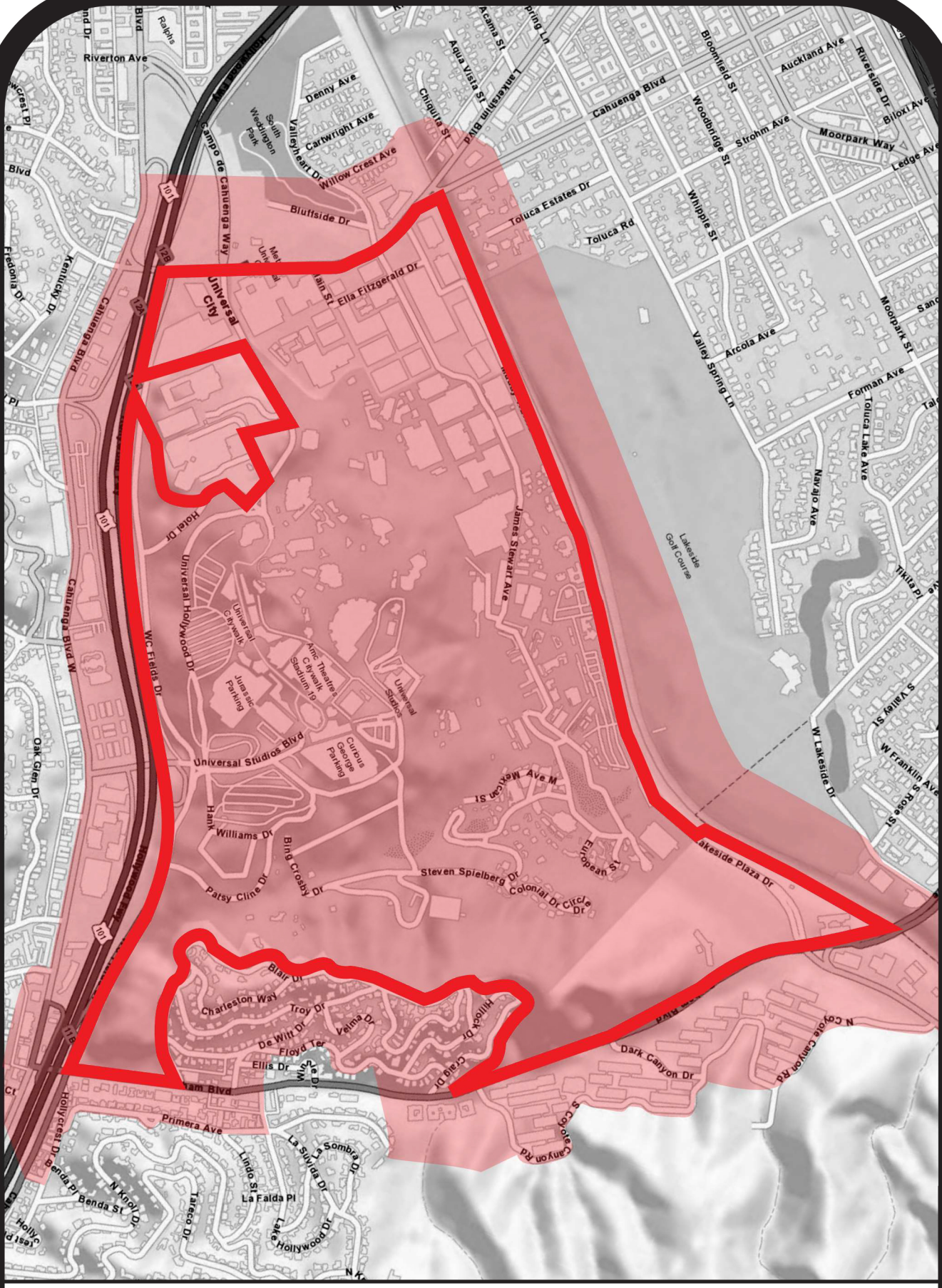
Dated: December 6, 2022

PUBLIC COUNSEL LAW CENTER

By: _____

Katherine J.G. Mckeon
Attorneys for Petitioners and Plaintiffs

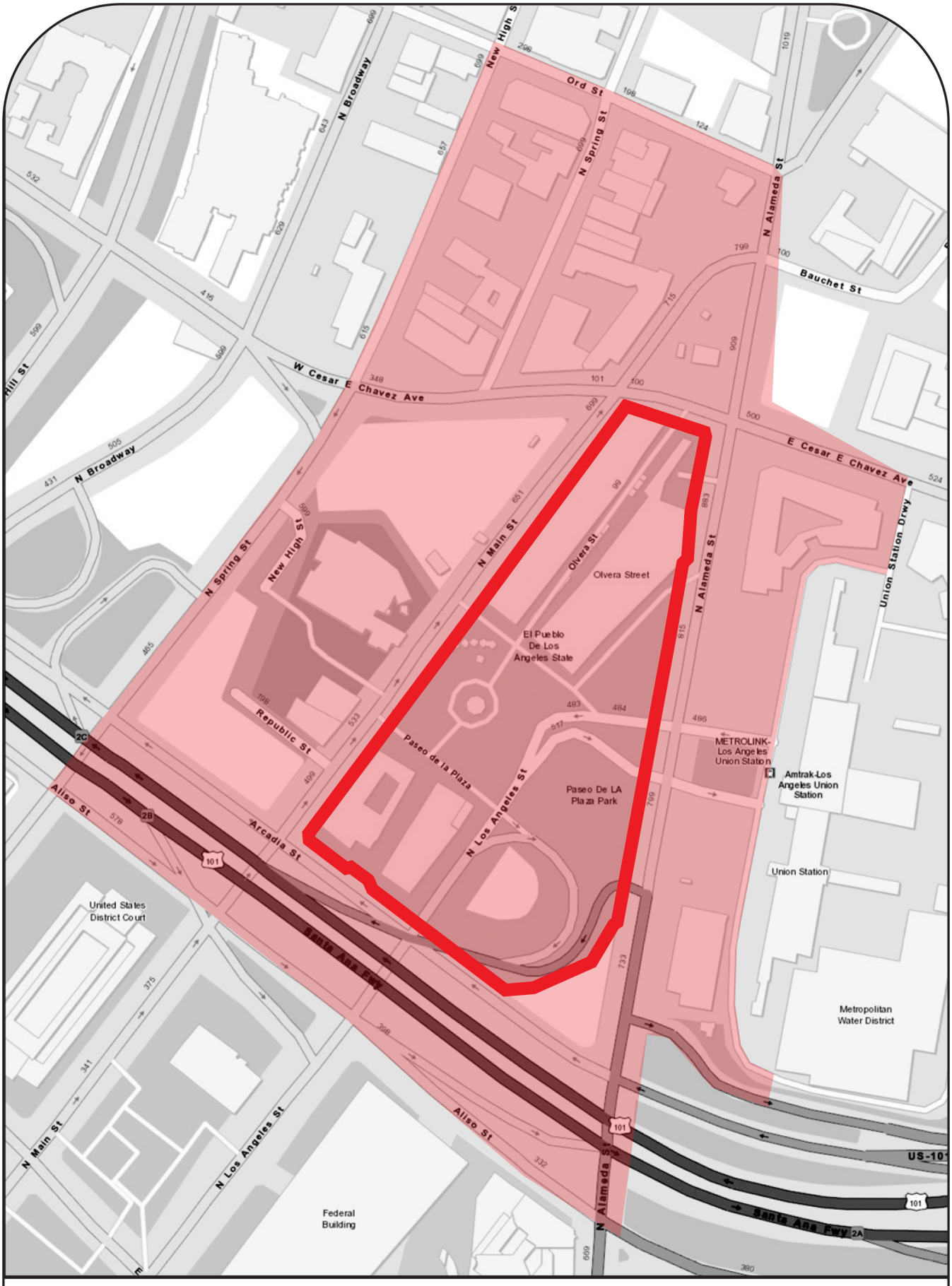
EXHIBIT A



UNIVERSAL STUDIOS/CITYWALK

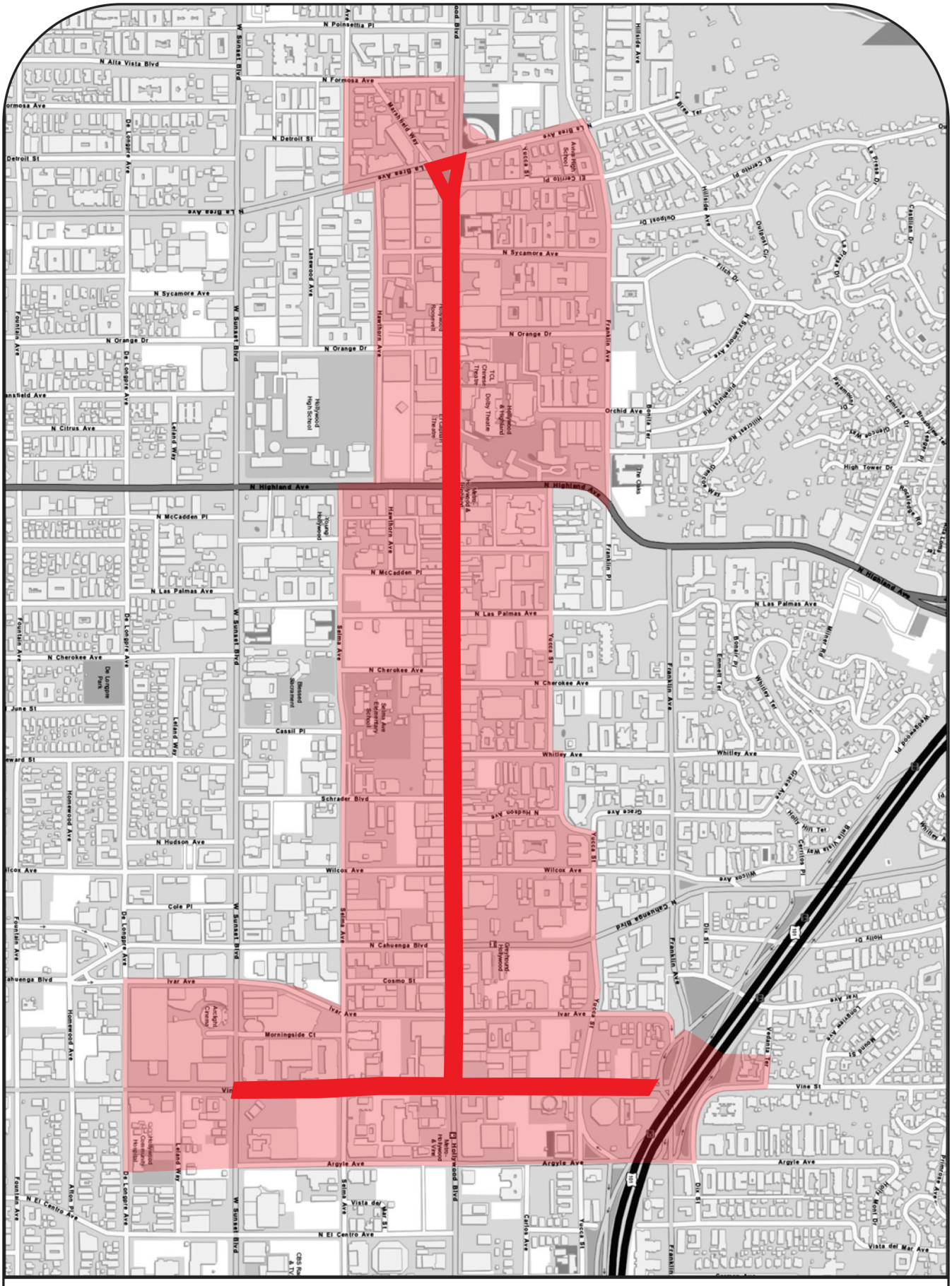
PROPERTY LINE/LÍNEA DE PROPIEDAD **RESTRICTED ZONE**/ZONA PROHIBIDA

L.A.M.C. 42.13 For more information call/Para más información llame al **(213) 847-6000**



EL PUEBLO DE LOS ANGELES HISTORICAL MONUMENT

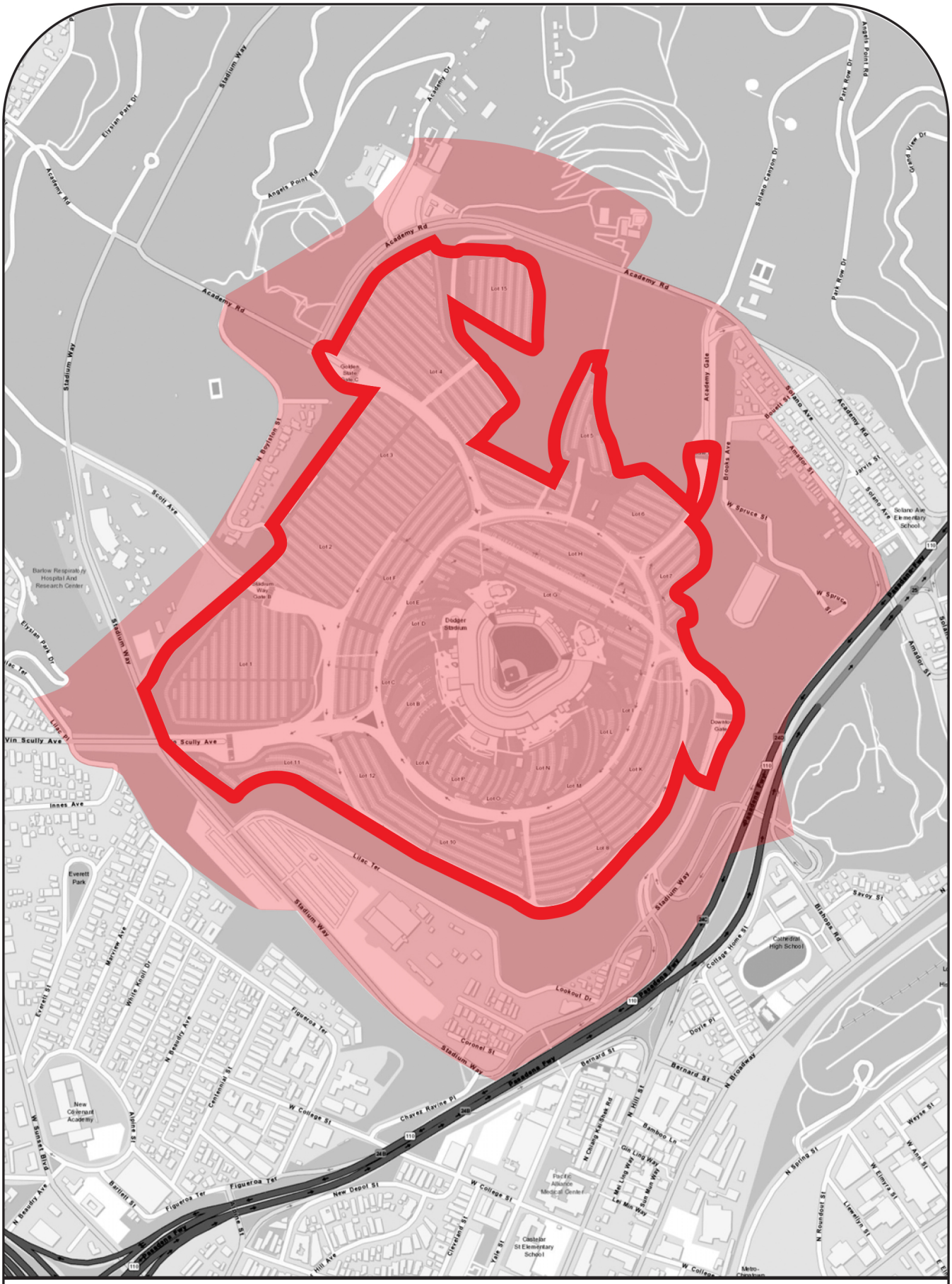
PROPERTY LINE/LÍNEA DE PROPIEDAD **RESTRICTED ZONE**/ZONA PROHIBIDO



HOLLYWOOD WALK OF FAME

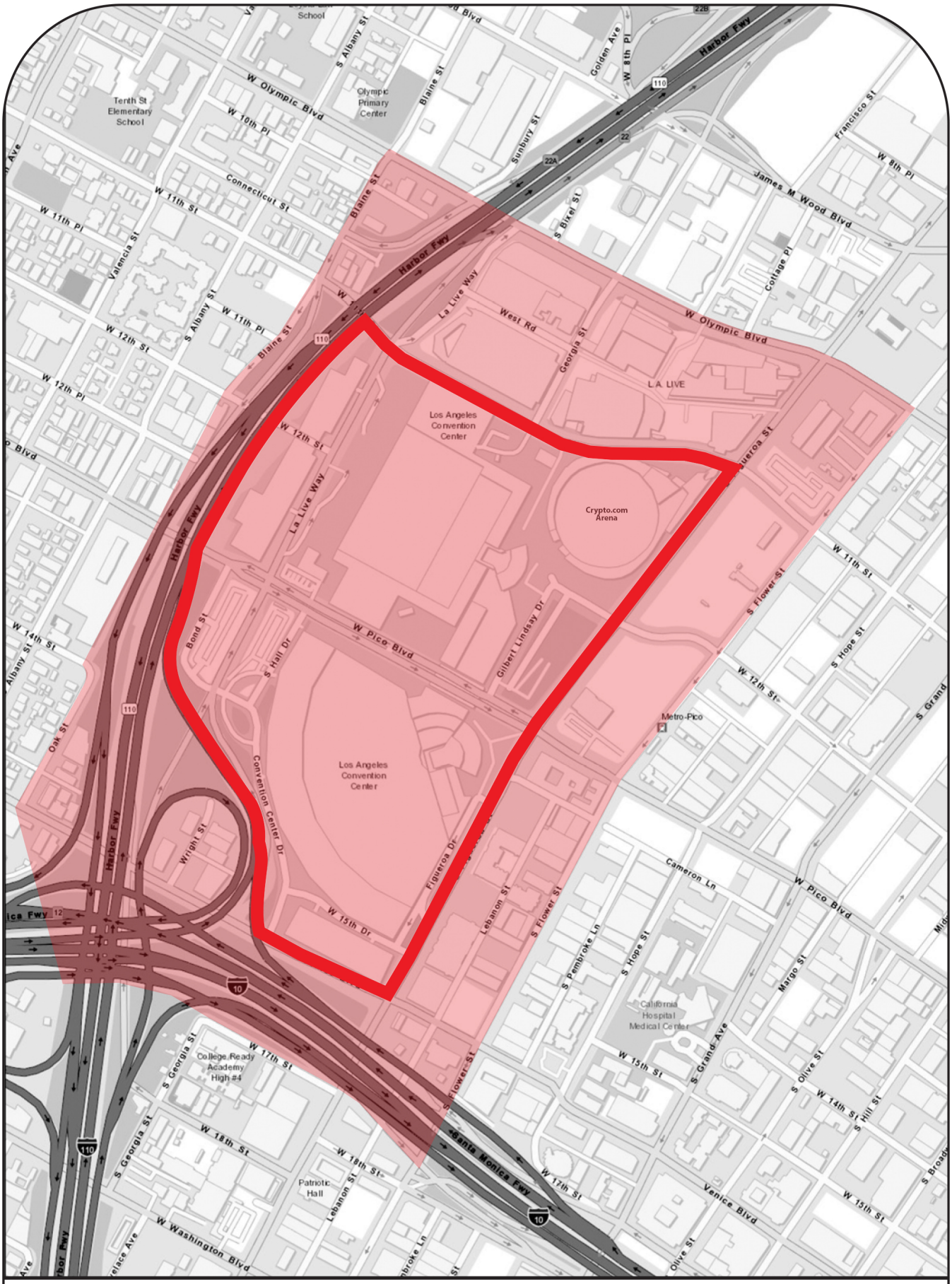
DISTRICT LINE/LÍNEA DE DISTRITO

RESTRICTED ZONE/ZONA PROHIBIDO



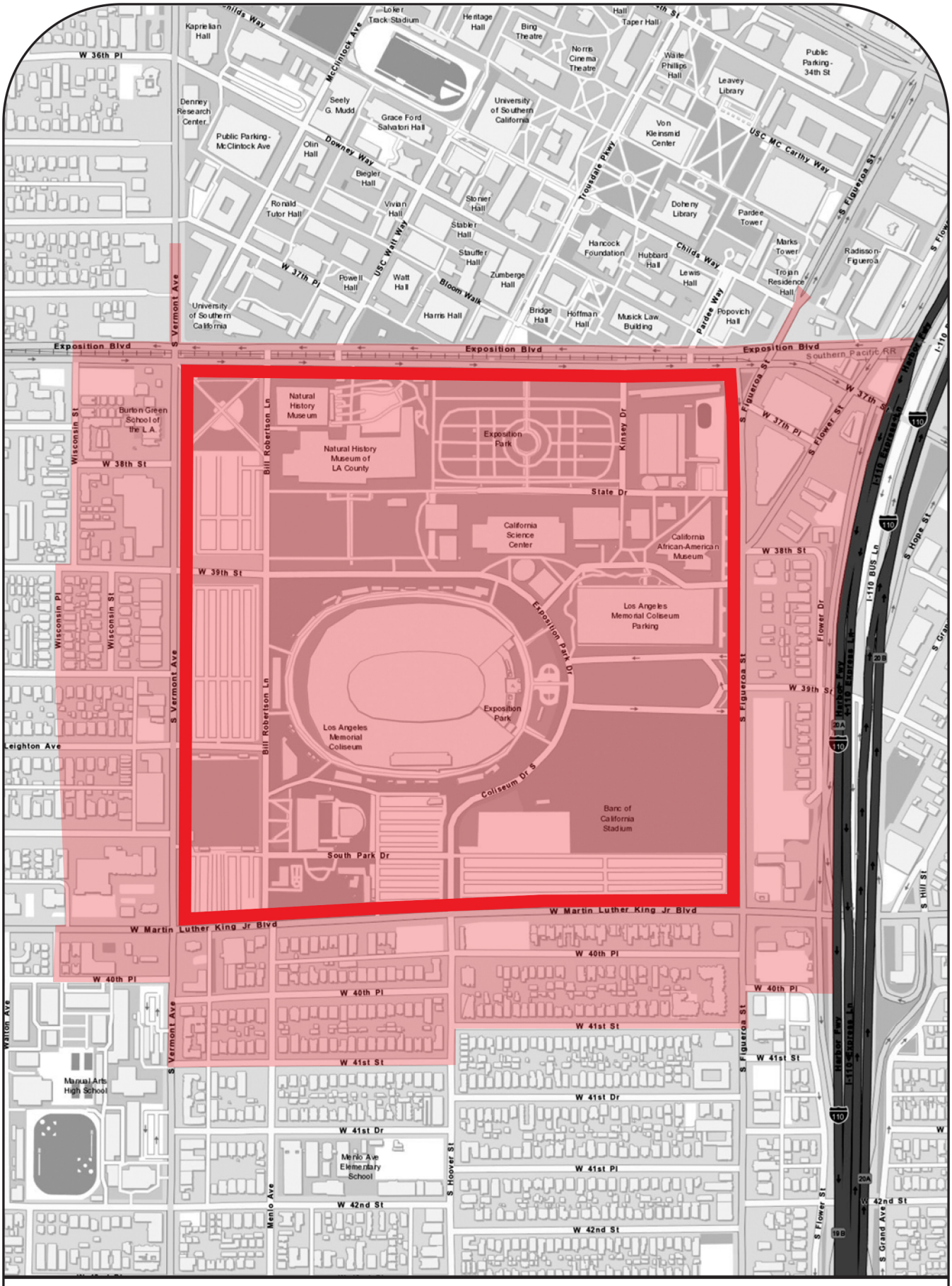
DODGER STADIUM

PROPERTY LINE/LÍNEA DE PROPIEDAD **RESTRICTED ZONE**/ZONA PROHIBIDO



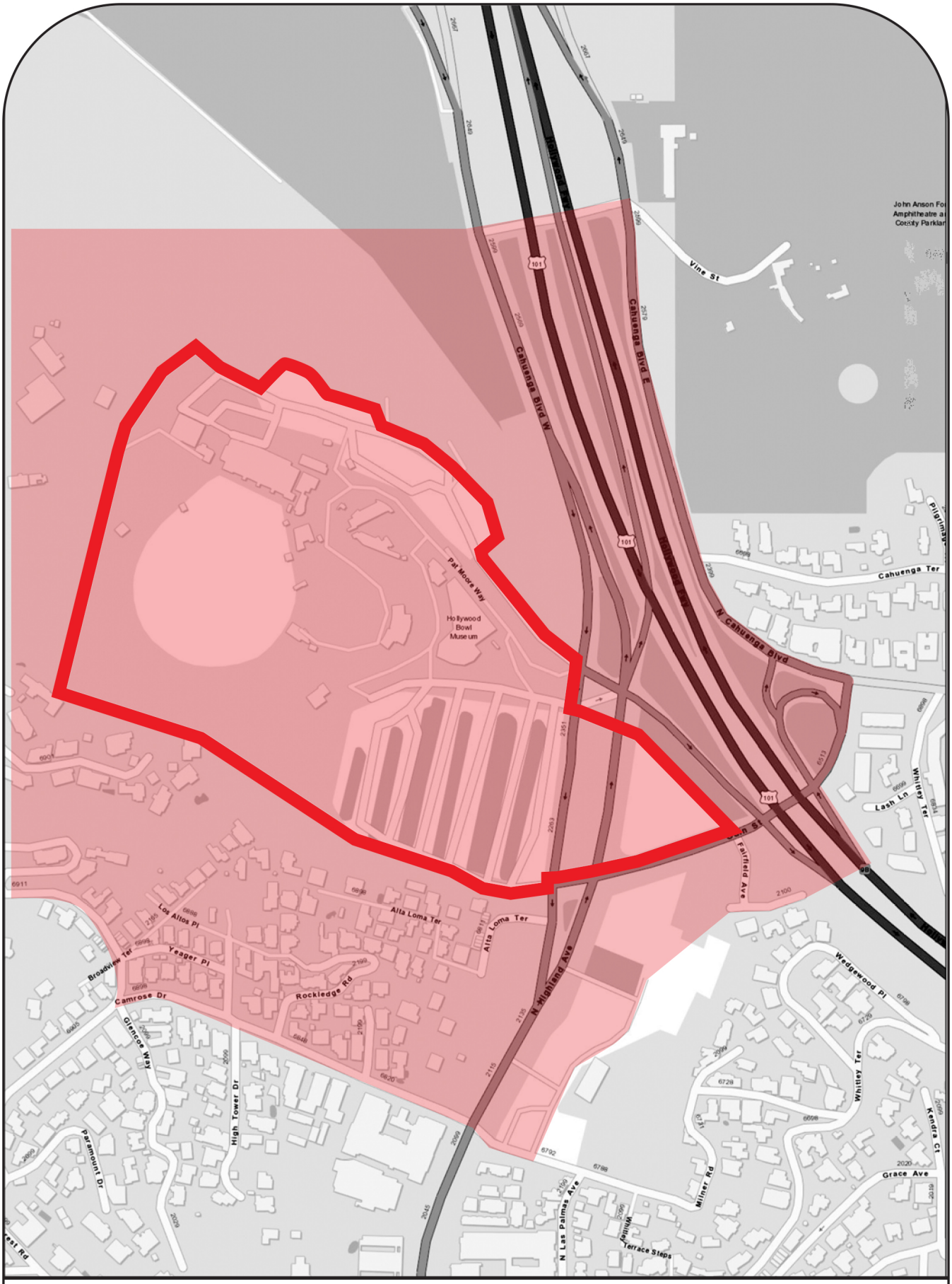
CONVENTION CENTER / LA LIVE

PROPERTY LINE/LÍNEA DE PROPIEDAD **RESTRICTED ZONE**/ZONA PROHIBIDO



LOS ANGELES COLISEUM

PROPERTY LINE/LÍNEA DE PROPIEDAD **RESTRICTED ZONE**/ZONA PROHIBIDO



HOLLYWOOD BOWL

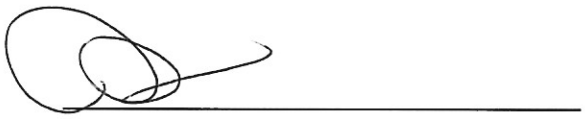
PROPERTY LINE/LÍNEA DE PROPIEDAD **RESTRICTED ZONE**/ZONA PROHIBIDO

VERIFICATION

I, Monica Mejia, declare and state as follows:

I am President and CEO of East Los Angeles Community Corporation, a party to this action, and am authorized to make this verification for and on behalf of this Petitioner and Plaintiff. I have read the foregoing Petition for Writ of Mandate and Complaint and know its contents. The matters stated in the foregoing document are true to the best of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 5 day of December, 2022 in Los Angeles, California.



VERIFICATION

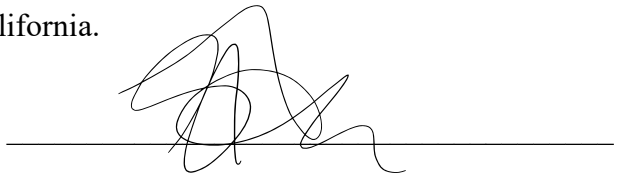
I, Rudy Espinoza, declare and state as follows:

I am Executive Director of Inclusive Action for the City, a party to this action, and am authorized to make this verification for and on behalf of this Petitioner and Plaintiff. I have read the foregoing Petition for Writ of Mandate and Complaint and know its contents. The matters stated in the foregoing document are true to the best of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 5th day of December, 2022 in Los Angeles, California.

VERIFICATION

I, Sergio Jimenez, declare and state as follows:

I am Senior Lead Community Organizer with Community Power Collective, a party to this action, and am authorized to make this verification for and on behalf of this Petitioner and Plaintiff. I have read the foregoing Petition for Writ of Mandate and Complaint and know its contents. The matters stated in the foregoing document are true to the best of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 15 day of December, 2022 in Los Angeles, California.